

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

In re: : **Case No. 20-60773**
: **Jason E. Danals** :
Glenda L. Danals : **Chapter 13**
: **Debtors.** : **Judge Russ Kendig**

**MOTION TO AVOID LIEN OF TRUIST BANK / SERVICE FINANCE CO., LLC ON
DEBTORS' PERSONAL PROPERTY**

Now come Debtors Jason E. and Glenda L. Danals, by and through the undersigned counsel and respectfully request that the Court issue an Order avoiding the lien of Truist Bank / Service Finance Co., LLC (hereinafter “Service Finance”) on their personal property, in accordance with 11 USC 522(f)(1)(B), and state as follows:

1. Debtors filed their Chapter 13 petition and corresponding plan on April 30, 2020.
2. The 341 meeting of creditors was held on June 1, 2020.
3. The Court has not yet confirmed their Chapter 13 plan.
4. On or about October 10, 2019, Debtors entered into a Home Improvement Retail Installment Contract (hereinafter “Contract”) with Thiels Home Solutions (hereinafter “Thiels”) and granted a security interest in “the goods purchased” further described as “Kitchen or Bath Remodel”. See attached proof of claim no. 8 filed on behalf of Truist Bank.
5. Specifically, Thiels was hired to remove a bath tub and replace it with a walk-in shower.
6. The only “goods purchased” was the walk-in shower.
7. The Contract was purchased by Service Finance.
8. Service Finance filed a UCC lien with the Ohio Secretary of State’s Office.

9. Debtors value the walk-in shower at \$1,250.00 and believe the remaining balance claimed is for labor.

10. Debtors claim an exemption in the walk-in-shower in the amount of \$1,250.00

11. 11 USC 522(f)(1)(B)(i) provides:

- (1) Notwithstanding any waiver of exemption but subject to paragraph (3), the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled under subsection (b) of this section, if such lien is –
 - (B) a nonpossessory, nonpurchase-money security interest in any –
 - (i) household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor;

12. Service Finance's lien impairs Debtors' exemption on the walk-in-shower.

WHEREFORE, Debtors respectfully request that this Court issue an Order avoiding Service Finance's security interest in Debtors' property, directing Service Finance to release the UCC lien and ordering that Service Finance shall be paid as an unsecured creditor.

Respectfully submitted,

/s/Rebecca K. Hockenberry
Rebecca K. Hockenberry (0074930)
Thompson & Hockenberry Co. LPA
371 Lexington Avenue
Mansfield, OH 44907
(419) 522-5297
(614) 737-9945 facsimile
rebecca@attyth.com

**NOTICE OF AMENDED MOTION TO AVOID THE LIEN OF TRUIST BANK /
SERVICE FINANCE CO., LLC**

Debtors have filed papers with the court requesting avoid a lien held by Truist Bank / Service Finance Co., LLC

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you wish to consult one).

If you do not want the court to approve the Amended Motion to Avoid the Lien, then on or before **21 days from the date of filing, November 5, 2020**, you or your attorney must file with the court a written request for hearing or response explaining your position at:

U.S Bankruptcy Court
Clerk's Office
Ralph Regula Federal Building and US Courthouse
401 McKinley Ave., SW
Canton, OH 44702

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also send a copy to:

Rebecca K. Hockenberry, Esq.
Thompson & Hockenberry Co. LPA
371 Lexington Avenue
Mansfield, OH 44907

Dynele L Schinker-Kuharich
Chapter 13 Trustee
200 Market Avenue North, Ste. 30
Canton, OH 44702

Office of the U.S. Trustee
201 Superior Avenue East, Ste. 441
Cleveland, OH 44114

If you or your attorney do not take these steps, the court may decide that you do not oppose relief sought in the motion and may enter an order granting relief.

CERTIFICATE OF SERVICE

I certify that on October 15, 2020, a true and correct copy of the **MOTION TO AVOID THE LIEN OF TRUIST BANK / SERVICE FINANCE CO., LLC** was served:

Via the court's Electronic Case Filing System on those entities and individuals who are listed on the court's Electronic Mail Notice List:

- Cynthia A. Jeffrey, on behalf of Ford Motor Company, at bknotice@reimerlaw.com
- Dynele L Schinker-Kuharich, Chapter 13 Trustee, at DLSK@Chapter13Canton.com, dschinkerkuharich@ecf.epiqsystems.com
- United States Trustee (Registered address)@usdoj.gov

And by regular U.S. mail, postage prepaid, on:

PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541

Service Finance Co., LLC
555 S. Federal Hwy #200
Boca Raton, FL 33432
Attn: Mark E. Berch, President

VIA Certified Mail
Truist Bank
214 North Tryon Street
Charlotte, NC 28202
Attn: Kelly S. King, Chairman & CEO

/s/ Rebecca K. Hockenberry
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Counsel for Debtors